

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

GIOVANNI COLLAZO-SANTIAGO,

Defendant.

ORDER

12-cr-136-wmc-1

12-cr-41-wmc-1

On April 5, 2016, the Seventh Circuit Court of Appeals vacated the district court's sentence of 78 months in Case No. 12-cr-136-wmc-1 and remanded the case with instructions to reinstate a sentence of 70 months. At the same time, the Court of Appeals affirmed the court's concurrent sentence of 78 months in Case No. 12-cr-41-wmc-1. The purpose of this order is simply to execute that court's mandate.

BACKGROUND

Giovanni Collazo-Santiago was sentenced to concurrent 90-month terms of imprisonment on January 4, 2013, following his convictions for possession with intent to distribute cocaine (Case No. 12-cr-136) and felon in possession of a firearm (Case No. 12-cr-41). The drug and firearm cases were consolidated for sentencing using a combined offense level that was determined under the provisions at USSG § 3D1.4.

On February 9, 2015, the court granted the parties' joint motion for a reduction in sentence in Case No. 12-cr-136 under 18 U.S.C. § 3582(c)(2) and Amendment 782 of the U.S. Sentencing Guidelines. Accordingly, the term of imprisonment was reduced to 70 months,

although the sentence continued to run concurrently with the term of imprisonment in Case No. 12-cr41, which remained 90 months.

On March 11, 2015, the court granted the parties' joint motion to vacate the order signed on February 9, 2015, and entered orders in Case Nos. 12-cr-136 and 12-cr-41, imposing terms of imprisonment of 78 months in each case, to run concurrently. The court later denied the defendant's motion for reconsideration in both cases. The defendant then appealed, maintaining that his sentences in both cases should be reduced to 70 months.

The Court of Appeals determined that the order of March 11, 2015, revising the 70-month sentence entered on February 9, 2015, in Case No. 12-cr-136, must be vacated because the time limit for correcting a substantive error is only 14 days under Fed. R. Crim. P. 35(a). The Court of Appeals nevertheless affirmed the concurrent 78-month term of imprisonment in Case No. 12-cr-41 consistent with this court's ruling pursuant to the parties' joint request under 18 U.S.C. § 3582(c)(2).

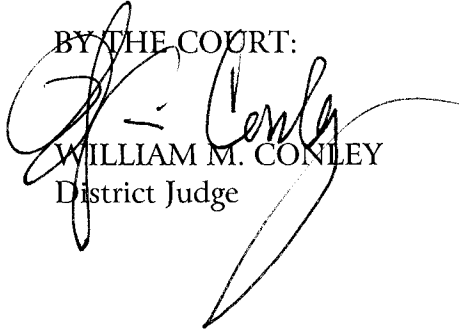
ORDER

IT IS ORDERED that in accordance with the mandate issued by Seventh Circuit Court of Appeals:

1. The order of March 11, 2015, imposing a 78-month sentence in Case No. 12-cr-136 is VACATED and the order dated February 9, 2015, imposing a 70-month sentence is REINSTATED.
2. Since the Court of Appeals affirmed the 78-month sentence in Case No. 12-cr-41, both sentences are to run CONCURRENTLY.

3. The Clerk of Court is directed to close these cases.

Entered this 2nd day of June, 2016.

BY THE COURT:

WILLIAM M. CONLEY
District Judge